



TENNESSEE DEPARTMENT OF SAFETY

1150 Foster Avenue
Nashville, Tennessee 37243


PHIL BREDESEN
GOVERNOR

DAVE MITCHELL
COMMISSIONER

DUE PROCESS DECISION – TERMINATION FROM COMMISSIONER

MEMORANDUM

TO: Lieutenant Ronnie Shirley

FROM: Commissioner Dave Mitchell 

DATE: October 16, 2008

SUBJECT: Disciplinary Action – Minimum Due Process/Termination
Lieutenant Ronnie Shirley
File No. IA-77-06-17-08

On Thursday, October 9, 2008, a Minimum Due Process Discussion was held in the case of Lieutenant Ronnie Shirley. The original recommendation for disciplinary action is stated in Colonel Mike Walker's memorandum dated September 3, 2008, to Lieutenant Ronnie Shirley.

After careful consideration of all relevant information presented to me, it is my decision that you be terminated from your current position, as disciplinary action in this matter.

The reasons for this disciplinary action are more specifically described in the attached summary of the investigation which was conducted and prepared by the Office of Professional Responsibility unit.


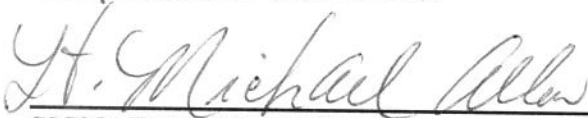
This action will be effective at the close of business on Sunday, October 26, 2008. This date includes ten (10) calendar days of administrative leave with pay. You will be paid for all accrued annual leave as well as all accrued compensatory time.

Lieutenant Ronnie Shirley
October 16, 2008
Page 2

You may appeal this decision through the Grievance Procedure within fifteen (15) working days of the date of this notice. Any questions you have about your appeal rights and options may be answered by your department of Human Resources Director or her representative or by calling the State Employee Information Line at 615/741-1646 or toll free 1/800-221-7345. Your request for an appeal must be in writing and addressed to Commissioner Dave Mitchell.

RECEIPT OF MINIMUM DUE PROCESS DECISION

This is to acknowledge receipt of the above Disciplinary Action Memorandum.

	10/16/08	1104
SIGNATURE OF EMPLOYEE	DATE	TIME
	10/16/08	1108 A.
SIGNATURE OF WITNESS	DATE	TIME

DM/vgd:dr

Attachment

cc: Commissioner Deborah E. Story
Colonel Mike Walker
Major J. R. Perry
Major John Savage
Captain Victor Donoho, Office of Professional Responsibility
Director Kerri Balthrop, Human Resources
Deborah Martin, Staff Attorney
Blanca Prado, ASA (2)

Office of Professional Responsibility - Investigation Summary
Lieutenant Ronnie Shirley
File No. IA-77-06-17-08

This Recommendation for Disciplinary Action is based upon the following allegations:

ITEM 1

On Friday, June 6, 2008, Information Technology Director Paul Battenfield contacted Major John Savage to advise him that Lieutenant Robert Eckerman made an inquiry of the Information Technology Division to determine who had accessed his driving record on the Integrated Criminal Justice Portal. Subsequently, Major Savage instructed Director Battenfield to obtain the records relative to the request of Lieutenant Eckerman's driver license information and provide the information to the Office of Professional Responsibility.

On Thursday, June 12, 2008, Director Battenfield provided written documentation that Lieutenant Eckerman's driver license information had been accessed by Lt. Ronnie Shirley's RACF number through the Integrated Criminal Justice Portal on Saturday, August 18, 2007.

On Monday, June 16, 2008, investigators from the Office of Professional Responsibility interviewed you regarding your access to the Integrated Criminal Justice Portal, which was allowed by the User Agreement you signed on October 4, 2006. During your interview, you initially stated you did not recall checking Lieutenant Eckerman's driver license record and that you had no idea why his record was checked. You also stated that it was not uncommon to check driver license records through the Integrated Criminal Justice Portal, but that it would need to be in an official capacity. You stated you checked less than one (1) driver license per month through the Integrated Criminal Justice Portal. Shortly after your interview was completed, you returned to the Office of Professional Responsibility and stated to investigators that you did recall checking Lieutenant Eckerman's record after speaking with your wife by telephone. The investigation revealed that you did not have a valid law enforcement purpose, nor did you receive consent from Lieutenant Eckerman to access his personal information. **(Violations 2, 3, 4, 6, 7, 8, 9 & 11)**

On Tuesday, June 24, 2008, the Office of Professional Responsibility received documentation from the Information Technology Division that revealed you had accessed a significant number of individuals' records through the Integrated Criminal Justice Portal, which directly conflicted with your statement of June 16, 2008. Subsequently, on July 2, 2008, Commissioner Dave Mitchell referred the investigation to the Highway Patrol's Criminal Investigation Division (CID).

The CID's investigation to date has revealed that you accessed one-hundred eighty two (182) individuals through the Integrated Criminal Justice Portal. These inquiries included access of the Tennessee Department of Safety's driver license records, the Tennessee Department of Revenue's Title and Registration records, the Tennessee Department of Correction's Tennessee Offender Management Information System and the Tennessee Bureau of Investigation's Sexual Offender Register.

On Thursday, August 7, 2008, you were interviewed by CID agents. During your initial interview you stated that **seven (7)** individuals had requested you access their information through the Integrated Criminal Justice Portal. There **were nineteen (19)** individuals that you identified as knowing, but you did not remember why you accessed their information through the Integrated Criminal Justice Portal. You advised the investigators you did not recall accessing the remainder of the 182 individuals (**Violations 2, 3, 4, 6, 7, 8, 9 & 11**)

As of Tuesday, September 2, 2008, CID agents have interviewed one hundred thirty-nine (139) individuals. One hundred thirty-two (132) individuals stated they did not authorize or consent for you to access their records. When the remaining interviews are completed, minimum due process notification may be updated.

Lieutenant Shirley, the investigation has revealed there is evidence that you engaged in criminal activity (T.C.A. 39-14-602, Unlawful Access of a Computer), by performing unauthorized record accesses of the Integrated Criminal Justice Portal. The majority of your queries were to view photos and driver license records of citizens that are protected by the Federal Driver Privacy Protection Act (DPPA). All queries of this nature must be for legitimate law enforcement purposes. (**Violation 1**)

Your unauthorized actions have generated a great deal of public attention. Your credibility as a law enforcement officer has been seriously undermined. You have abused your authority and participated in acts that have shattered your credibility and trustworthiness with the public and the Department. Your gross misconduct has ultimately destroyed your ability to perform the duties of a Tennessee State Trooper. (**Violations 2, 3, 4, 5, 6, 7, 8, 9, 10 & 11**)

This Recommendation for Disciplinary Action is necessary due to the following violations:

1. Tennessee Code Annotated 39-14-602, Violations, - Penalties – Unlawful Access of a Computer.
2. Department of Human Resources Rule 1120-10-.06(2): Negligence in the performance of duties.

3. Department of Human Resources Rule 1120-10-.06(8): Gross misconduct or Conduct unbecoming an employee in the State Service.
4. Department of Human Resources Rule 1120-10-.06(12): Participation in any action that would in any way seriously disrupt the normal operation of the agency, institution, department or any other segment of the State service or that would interfere with the ability of management to manage.
5. Department of Personnel Rule 1120-10-.06(24): For the good of the service as outlined in T.C.A. 8-30-326.
6. Department of Safety General Order 216-2 II. Policy: It is the policy of the Department of Safety to warn, suspend, demote or dismiss any employee whenever just or legal cause exists. Employees shall not commit any act that would reflect discredit upon themselves and the department while on duty. It is vital that all persons concerned be fully aware of the penalties for misconduct and the procedures for enforcing them.

When off duty, no employee shall commit any act that would reflect discredit upon themselves or the Department, or which would hamper their ability to perform their duties.

7. Department of Safety, General Order 216-2: IV, B, 1, a, b, c: Violation of any written rule, regulation, policy or procedure including all rules of the Tennessee Department of Personnel; Willful disobedience of the rules and regulations or a negligent disregard thereof; No employee shall plead ignorance of the rule and regulations or offer same as a defense in the charge of omission or commission.
8. Department of Safety, General Order 216-2: IV, B, 3, b: Employees are expected to an example to the public in abiding by and complying with all traffic laws, rules and regulations and other laws.
9. Department of Safety, General Order 216-2, IV, 4, b, c: No employee shall be guilty of oppression, favoritism, or willful wrong or injustice; No employee shall allow personal feelings to influence him/her in dealing fairly in any matter which he/she is called to handle.
10. Department of Safety, General Order 216-2, IV, 17: Any employee may be dismissed when the department considers that the good of the service will be served thereby, (T.C.A. 8-30-326).
11. Integrated Criminal Justice Web Portal Access Agreement.